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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,607	04/05/2006	Noriyuki Fukui	288058US2PCT	4208
22850	7590	07/10/2008	EXAMINER	
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			CASCA, FRED A	
		ART UNIT	PAPER NUMBER	
		2617		
		NOTIFICATION DATE	DELIVERY MODE	
		07/10/2008	ELECTRONIC	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/574,607	FUKUI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	FRED A. CASCA	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 10-13 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 10-13 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 05 April 2006 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____ .                                     |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>04/05/2006</u> .  | 6) <input type="checkbox"/> Other: ____ .                         |

Application/Control Number:  
10/574,607  
Art Unit 2617

## **DETAIL ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 10 -13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 10 recites the limitations “the terminal transmitting a request for a resource assignment”, “terminal acquiring an initial value of a resource for data transmission”, “acquiring the initial value”, “resource for data transmission is not remained”, and “regardless of whether the resource for data transmission is remained”. None of the above mentioned limitations are defined or mentioned in the specification. Only the new revised abstract mentions the above mentioned limitations. However, the new abstract only repeats the exact language of the claim without any further explanations. There is insufficient explanation of how a terminal transmits a request for a resource management to the base station, how an initial value is acquired, and how the terminal "not transmit" the new data when the resource for data transmission is not remained.

Application/Control Number:  
10/574,607  
Art Unit 2617

Claims 11-13 are rejected under for the same reasons that claim 10 is rejected. The same limitations of claim 10 also appear within claims 11-13.

***New Matter***

3. Claims 10-13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Independent claims 10-13 have been amended to contain new matter.

The limitations, “the terminal transmitting a request for a resource assignment”, “terminal acquiring an initial value of a resource for data transmission”, “acquiring the initial value”, “resource for data transmission is not remained”, and “regardless of whether the resource for data transmission is remained” has been added to claim 10 has not been described in the specification. Only the new revised abstract mentions the above mentioned limitations. Similarly claims 11-13 has been amended with the same limitations as that of amended claim 10.

Application/Control Number:  
10/574,607  
Art Unit 2617

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –  
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Wei et al (US Pub. No. 2003/0227875 A1).

Referring to claim 10, Wei discloses a communication method in a communication system (abstract) including a base station and a terminal (figure 1), the terminal transmitting a single data as a new data to the base station (figure 1 and 4 and paragraphs 24-25), and upon receiving an NAK signal indicating a reception failure from the base station as a response to the transmission of the new data, transmitting the single data as retransmission data to the base station, the communication (abstract, paragraph 9 and figures 4-9) method comprising acquiring including the terminal transmitting a request for a resource assignment to the base station (figures 4-9 and paragraphs 24, 25 and 56); and the terminal acquiring an initial value of a resource for data transmission that can be reduced with time (figures 4-9 and paragraphs 56-57); transmitting including, after acquiring the initial value at the acquiring (figures 2, 4-9 and 37), the terminal not transmit the new data to the base station when the resource for data transmission is not

Application/Control Number:  
10/574,607  
Art Unit 2617

remained (figures 4-9 and paragraphs 9, 75, 79-80, 84 and 87); and the terminal transmitting the new data to the base station when the resource for data transmission is remained (figures 4-9 and paragraphs 9, 75, 79-80, 84 and 87, “sending NAKs at the RLP sublayer to request retransmission of these missing RLP frames, the receiver RLP starts a delayed NAK timer”); and retransmitting including the terminal transmitting, when the new data is transmitted to the base station at the transmitting and the NAK signal is received from the base station as a response to the new data, the retransmission data to the base station regardless of whether the resource for data transmission is remained upon transmitting the retransmission data (figures 4-9 and paragraphs 9, 75, 79-80, 84 and 87, “retransmission of the RLP frame through a false-alarm NAK”).

Referring to claims 11-13, claims 11-13 recite features analogous to the features of the method defined by claim 10 (as rejected above). Thus, Wei discloses all elements of claims 11-13 (please see the rejection of claim 10 above).

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred A. Casca whose telephone number is (571) 272-7918. The examiner can normally be reached on Monday through Friday from 9 to 5.

Application/Control Number:  
10/574,607  
Art Unit 2617

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Harper, can be reached at (571) 272-7605. The fax number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/VINCENT P. HARPER/  
Supervisory Patent Examiner, Art Unit 2617